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I. LAND AND PEOPLE

1. The Republic of Panama lies on the isthmus linking Central America to South America. It covers a land area of 75,515 km^2 and is located in the lower tropical latitudes, which account for its characteristic tropical climate. It is bounded to the north by the Caribbean Sea, to the south by the Pacific Ocean, to the east by the Republic of Colombia and to the west by the Republic of Costa Rica. The Panama Canal divides the national territory and is 80 km long from north-west to south-east.

2. For political and administrative purposes, the Republic is divided into nine provinces, which are subdivided into 67 districts or municipalities and three indigenous regions. The municipalities are in turn subdivided into 510 administrative districts (corregimentos), which are the political basis of the State.

3. According to the 1990 census, the Republic's population is 2,329,329, with a density of 30.8 inhabitants per square kilometre, which classifies Panama as a country with a low population density. Between the 1950 and 1970 censuses, annual population growth was approximately 3 per cent, before declining to 2.6 per cent between 1980 and 1990. Nowadays (1995), natural population growth is barely 2 per cent a year. This drop in population growth is the result of a number of demographic changes: a slight increase in the number of natural deaths per year because of the ageing of the population in relative terms; moderate emigration during the last 20 years (40,000 inhabitants); and, above all, a marked decline in the fertility rate of Panamanian women.

4. Most of the population lives in the metropolitan region - composed of the provinces of Panama and Colón - where Panama's main economic, social and administrative activities are concentrated. The country's rural population is quite scattered throughout the rest of the country.

5. Panama is a multiracial country with large white, negro, mulatto and oriental populations. Indigenous peoples make up about 8.3 per cent of the total population.

A. Education and training

6. The official language of the Republic of Panama is Spanish.

7. In the last 30 years, Panama has considerably improved its literacy rates. In 1960, the illiteracy rate was 21.7 per cent, whereas, in 1990, it had fallen to 10.6 per cent. Illiteracy among the rural population is still 19.7 per cent, but only 3.6 per cent among the urban population. In 1990, female illiteracy was slightly higher than male illiteracy (11.1 per cent for women as against 10.3 per cent for men). In contrast, among the indigenous population, female illiteracy is lower than male illiteracy (7.9 per cent and 8.3 per cent, respectively).

8. With regard to levels of education, the 1990 census data show that the population as a whole completes 6.7 years of schooling, with a slightly higher

level among women then men (6.8 as against 6.6). In 1990, 46.7 per cent of the population had only partly completed primary education. The percentage of the population which has completed secondary education rose from 25.9 per cent in 1980 to 31 per cent in 1990, while the proportion with a university education rose from 5.6 per cent to 8.5 per cent during the same period.

9. Young people have benefited from broader educational coverage in recent years. In 1980, 13.2 per cent of the population aged between 10 and 19 was illiterate, but the figure had fallen to 6.4 per cent in 1990.

10. Panama is one of the countries in the region that earmarks the most resources for education, and this is the main reason for the progress made. The main educational problems in Panama are nevertheless of a qualitative nature and education has to be adapted to scientific, technological and cultural advances and the environmental problems affecting society have to continue to be studied.

B. Health

11. National health indicators show that progress has been made, but the situation of the sectors of the population whose basic health, nutrition and sanitation requirements are not being met is still unequal and getting worse.

12. Fertility rates have declined in recent years, but available data show that women bear children at an increasingly early age. In 1990, births to women at high-risk ages accounted for 27.1 per cent of the total. Mothers aged under 20 account for 71.4 per cent of births, with no great difference between urban and rural women. Furthermore, 89 per cent of the women aged under 20 who gave birth were unmarried.

13. The statistical picture has also changed in the last 40 years, showing a decline in obstetrical problems and an increase in illnesses characteristic of adult and elderly women, such as cardiovascular diseases, and, in particular, an increase in the number of malignant tumours of the reproductive system, most of which are wholly preventable.

14. The incidence of AIDS has increased gradually: women accounted for 3.4 per cent of AIDS-related deaths in 1985 and for 18 per cent in 1994.

15. In 1993, Panama had 59 medical centres and hospitals, 183 health centres and clinics and 369 secondary health centres and first-aid posts. In terms of the number of available beds, there were approximately three beds per 1,000 inhabitants in 1993.

16. The 1993 figures for human resources in the health sector were as follows:

800 inhabitants per doctor;

4,783 inhabitants per dentist;

970 inhabitants per nurse;

Professional care was available for 87.1 per cent of childbirths;

56.1 per cent of the population was covered by the Social Security Institute.

With regard to vaccination coverage, the percentage of the population which received its DPT, polio, BCG and measles vaccinations rose by 5.6 per cent, 5.8 per cent, 9.6 per cent and 5.8 per cent, respectively.

C. Housing

17. According to the Ministry of Housing, the housing shortage in 1993 was 195,244 dwellings, 48 per cent in the province of Panama. Despite the efforts made, the figures show that supply is well below demand.

18. Low-cost housing is built exclusively by State agencies. High building and land costs are the major reasons why growing demand goes largely unsatisfied.

D. Availability of drinking water and sanitation services

19. According to census data, 16 per cent and 12 per cent, respectively, of occupied dwellings in Panama did not have access to drinking water or sanitation. However, the figures were higher among groups most affected by poverty in rural and indigenous areas. Thus, in districts classified as being at the first level of poverty, 70.5 per cent of dwellings do not have access to drinking water, while two thirds do not have sanitation.

20. The shortage of access to electric power is even greater.

E. The environment

21. Environmental degradation is related to the population's patterns of consumption, scant awareness of the relationship between man and nature and the fact that nature is being sacrificed to economic growth.

22. Deforestation in the Panama Canal basin is of particular concern. Approximately 40 per cent of the 326,000 hectares in the basin have been deforested.

23. The Bay of Panama has been particularly affected by rapid urban growth, which has led to increased pollution by untreated domestic and industrial waste, as well as by pesticides and fertilizers, which are a threat to human health and the development of fishing.

24. Air pollution is worsening because of traffic density, unsuitable industrial waste disposal methods, inadequate legal provisions and the non-implementation of existing provisions.

25. The unequal distribution of the population, which tends to concentrate in the metropolitan area because of migration to the most economically active areas, hampers proper urban planning, thereby restricting the proper provision

of the basic drinking water, energy, transport and waste collection services, as well as the implementation of programmes to deal with the ecological consequences.

II. THE ECONOMY

A. Economic growth

26. During the 1990-1993 period, the Panamanian economy made a marked recovery. Gross domestic product (GDP) increased by 26 per cent in aggregate terms, which represents an average growth rate of 8 per cent in annual terms, while real per capita product rose by 6.3 per cent annually. These figures are above the average for Latin America, whose product grew by an estimated 10.3 per cent and per capita product by 2.6 per cent, in aggregate terms, during the same period. Growth was concentrated mainly in services, which, in general terms, gradually increased their share of GDP.

27. The transport, storage, communications and finance sectors accounted for the 52 per cent increase in production between 1986 and 1992. These sectors, which include modern and highly productive sectors such as the Free Trade Zone, the Panama Canal and the Banking Centre, are located mainly in the metropolitan area and have few organized links with the interior of the Republic. As these economic activities have reached maturity, their job-creation capacity is quite low: during the period in question, they accounted for 18 per cent of the new jobs created.

28. The low labour absorption capacity of the economy's modern sector has entailed a significant increase in employment in the informal or non-traditional sector of the labour market. Thus, 51.7 per cent of the jobs created during the period in question (with the exception of domestic employment) were for own-account workers, employers and unpaid domestic workers.

29. Generally speaking, the main macroeconomic indicators made an extraordinary recovery, particularly during the first five years (1990-1995) of the current decade, but this was not matched by a recovery in productive employment.

B. Contractual public debt

30. On 31 December 1993, contractual or documented public debt amounted to B 5,710.9 million, an increase of B 784.8 million since the same date in 1992. This increase in total public debt was composed of a B 813.7 million increase in documented domestic debt and a B 28.9 million decline in external debt.

31. On 31 December 1993, the public sector held matured interest on external public debt worth B 1,518 million. If this is added to the capital balance of contractual public debt, total public debt at the end of 1993 amounted to B 7,228.9 million. Panama's estimated GDP for 1993 was B 6,561.9 million.

32. Panama is up to date with its external debt servicing to multilateral institutions and bilateral creditors belonging to the Paris Club. Its debt to commercial banks - capital and interest due combined - amounts to approximately B 3,222 million.

C. Income distribution

33. Unequal distribution of wealth is the structural problem that has, historically, had the greatest impact on the Panamanian economy. The conspicuous development of the sector of services for the international market, including the Panama Canal and the professional and personal services generated by this operation and by the military bases, which have operated as an economic enclave for several centuries, account for the fact that wage scales are very different from the wage structure of the traditional activities characteristic of a developing country. Because of the high level of skills they require and the market for which they are intended, the service occupations have a concentrating effect on income structure and, in quantitative and qualitative terms, have substantially distorted the meaning and interpretation of per capita income indicators in Panama.

34. In political and geographical terms, per capita income in 48 per cent of Panama's administrative districts between 1982 and 1991 was lower than the cost of the basic food basket in Panama City which was B 195.16 per month at the time.

35. In the 45 per cent of districts where 20 per cent of the total population lives, the extent to which basic needs are met is defined as "extremely low, low or fairly low". The main characteristics of these districts are the large proportion of indigenous inhabitants, their primarily rural nature and the very scattered population.

D. The employment situation

36. The level of unemployment in Panama has always been fairly high, with rates of over 6 per cent since the 1960s, despite the economic growth of recent years; this reflects the deep structural problems which have affected the Panamanian economy's capacity to absorb the increase in the labour supply.

37. Panama's economy suffered on account of the critical economic situation in the 1980s, including the coercive economic measures taken against it, the fall in growth rates, the shrinkage of the investment coefficient and the resulting social and political problems. This situation led to an unprecedented rise in the rate of unemployment, which rose in 1989 to 20.4 per cent in the metropolitan region and to 10.7 per cent in the rest of the country, with a national level of 16.3 per cent of the economically active population.

38. Twenty-one per cent of the active population may be classified as underemployed, because of low income or hours worked and because of the drop in family income resulting from unemployment and underemployment, which exert heavy pressure on a larger number of young people and women to join the labour market; 30 per cent of young people and 22 per cent of women are unemployed.

39. On the whole, the labour market has been characterized by conflicting trends. On the one hand, there have been definite signs of modernization in recent decades, such as the percentage of highly skilled jobs in total employment, the increase in the participation of women in the labour force and the decline in agricultural employment. These signs have continued to be positive.

40. On the other hand, other features such as the concentration of new job opportunities in a small number of economic activities in the metropolitan region, the increase in the proportion of persons employed in the informal sector, the drop in the proportion of wage-earners and the deterioration in the real wages of workers in private enterprises all had a negative impact on the living and working conditions of the Panamanian labour force.

III. OVERALL POLITICAL STRUCTURE

A. General

41. The Panamanian nation is organized as a sovereign and independent State, and its name is the Republic of Panama. Its Government is unitary, republican, democratic and representative.

42. Panama gained its independence from Spain in November 1821 and voluntarily joined the Colombian union led by the Liberator Simón Bolívar and governed by the Constitution adopted in Villa del Rosario de Cúcuta on 30 August 1821. The Constitution established a centralized system composed of the departments of Colombia, Venezuela, Cundinamarca and Quito, which were joined by Panama. On 27 August 1828, General Simón Bolívar assumed supreme authority and adopted the title of Liberator-President.

43. When the Colombian union broke up in 1830, Bolívar was still alive and Panama tried to secede from what was left of the Colombian Government, but desisted at his personal request. A constitution establishing a new State, New Granada, was subsequently approved in 1832 and it reduced Panama to the status of a province. Despite the repeated military uprisings and rebellions by the settlers of the Panamanian isthmus, they were given equal treatment by the 1853 Constitution.

44. In the midst of the constant civil wars that shook New Granada throughout the nineteenth century and in an attempt to hamper Panama's efforts to regain its independence, a new federal Constitution was adopted and remained in force until 1886. Finally, New Granada changed its name to the United Colombian States and reduced Panama to the status of a province once again.

45. In order to ensure control over the Panamanian isthmus, New Granada approved the signing of a treaty with the United States authorizing it to guarantee New Granada's sovereignty over Panama by military means. In return, the United States received unimpeded, duty-free passage through the isthmus of Panama for goods, men and troops, as well as major concessions for the construction of the trans-isthmus railway.

46. Subsequently, after Panama's victorious rebellion, when the United States Congress asked its President why he had not helped the Colombian Government to subdue Panama during the 1903 popular uprising, as required by the Mallarino-Bidlack treaty, he submitted a report indicating how many times (more than five) the Colombian Government had requested the use of military force to crush the uprising and the Panamanian people's desire for independence.

47. Panama finally proclaimed its complete independence on 3 November 1903. The price Panama had to pay to have the United States withdraw its support for Colombia's occupation of Panama was to grant it virtually sovereign rights, in perpetuity, over a stretch of land suitable for the construction of the Canal. The privileges were the same as those for the railway.

48. Since Panama became independent, it has been governed by four Constitutions. The first, which was adopted by the Constituent Assembly in 1904, remained in force until 2 January 1941. It gave the United States the unilateral right to intervene "in order to restore law and order and constitutional rule" (art. 136), which the United States exercised many times, occupying some parts of Panama for several years. The 1941 Constitution was the result of a grass-roots reform movement sponsored by the then President of the Republic, Arnulfo Arias Madrid, who set out to reform the system of government in order to give himself greater discretion in the use of power. In this context, Mr. Arias' party took over the leadership of a growing wave of nationalistic and anti-oligarchical feeling. However, because of the way the Constitution was being overridden, proposed reforms were being adopted and the content of some of its articles were being deeply influenced by ideologies prevalent in Nazi Germany and because of the pro-German bent of his foreign policy and the practices and policies of the Government, a broad domestic coalition was established and supported by the United States. It put an end to the Arias Government in 1941 and to the Constitution at the end of the Second World War. After the war, a new constitution, which was discussed and approved by a broadly representative constituent assembly, was adopted in 1946.

49. A coup d'état led by young army officers took place in 1968. The governing military junta issued Decree No. 214 of 11 October 1971 establishing a commission to carry out "revolutionary reforms" to the 1946 Constitution. This constitutional review led to the drafting of the 1972 Constitution, whose noteworthy features are the preservation of the formal structure of the earlier constitutions, the broadening of social rights, the regulation of political parties, the establishment of the National Assembly of Representatives of Administrative Districts and the National Legislative Council, the increased role of the State in the economy and the separation of the functions of the Head of State and the Head of Government, the latter being assigned by a national plebiscite to General Omar Torrijos Herrera, the leader of the revolutionary movement.

50. General Torrijos Herrera began a campaign for the restoration of Panamanian sovereignty over the Canal Zone, for which he gained the full support of the international community. Following lengthy negotiations, the Panama Canal Treaty and the Treaty concerning the Permanent Neutrality and

Operation of the Panama Canal were signed on 7 September 1977. On the basis of these treaties, the Republic of Panama will assume full jurisdiction over the Canal at noon on 31 December 1999.

51. In 1978 and 1983, extensive and widely accepted reforms were made to the Constitution in order gradually to restore democratic responsibility to the electorate for choosing all elected State bodies and representatives by free, secret and direct ballot.

52. In accordance with article 2 of the Constitution, the Government of the Republic of Panama is composed of three major branches which work independently, but harmoniously. They are the executive, the legislative and the judicial branches.

B. The executive branch

53. According to the Constitution, the executive branch is composed of the President of the Republic and the Ministers of State. The President of the Republic carries out his duties alone or with the assistance of the ministers meeting in the Council of Ministers. The President of the Republic is elected for a five-year term by a majority of votes cast in a direct popular election. The following are elected in the same manner and for the same term: the First and Second Vice-Presidents, who, according to the provisions of articles 182, 183 and 184 of the Constitution, stand in for the President in his absence.

54. The executive branch is composed of the following 12 ministries: Interior and Justice, Foreign Affairs, Health, Finance, Planning and Economic Policy, Office of the President, Housing, Education, Public Works, Trade and Industry, Labour and Welfare and Agricultural Development.

55. Members of the Council of Ministers must be Panamanian by birth, 25 years of age and must not have received a custodial sentence from the courts for an administrative offence.

1. The Council of Ministers

56. The Council of Ministers is the body in which the President of the Republic, who serves as chairman, meets with the Vice-Presidents of the Republic and the Ministers of State; its functions are, inter alia:

(a) To act as an advisory body in matters brought before it by the President of the Republic and in those on which its views are required by the Constitution or by law;

(b) To decide, by agreement with the President of the Republic, on the appointment of judges of the Supreme Court, the Attorney-General, the Government Prosecutor and their respective deputies, subject to approval by the Legislative Assembly;

(c) To order, under the joint responsibility of all its members, a state of emergency and the suspension of the relevant constitutional provisions, in accordance with the provisions of article 51 of the Constitution.

2. The General Council of State

57. The General Council of State is the body in which the President of the Republic, who serves as chairman, meets with the Vice-Presidents of the Republic, the Ministers of State, the Directors-General of autonomous and semi-autonomous institutions, the Commander-in-Chief of the armed forces, the Comptroller General of the Republic, the Attorney General, the Government Prosecutor, the President of the Legislative Assembly and the Presidents of the Provincial Councils.

58. The General Council of State acts as an advisory body in matters brought before it by the Office of the President of the Republic or by the Office of the President of the Legislative Assembly.

59. The executive branch has two broad areas of responsibility: the central Government and the decentralized institutions. The former formulates overall public policy and decides how it is to be implemented. The decentralized institutions consist of all the autonomous and semi-autonomous public institutions that are responsible for performing Government functions and implementing Government programmes in accordance with the policies adopted.

C. The legislative branch

60. The Panamanian legislative branch has changed somewhat, particularly in name and composition, since the first republican Constitution of 1904. However, its overall functions have changed little. The changes have taken place in its composition, which has gone from a national assembly composed of a number of deputies proportional to the population of the electoral districts to a national assembly of representatives of administrative districts composed of the 505 representatives of the administrative districts, elected - as independent candidates - in a free, secret and direct vote of the citizens living in each of these political-administrative divisions dating from the colonial period.

61. From 1904 to 1968, the legislative branch was composed of between 40 and 60 deputies.

62. The 1972 Constitution stated that legislative functions would be exercised jointly by the National Assembly of Representatives of administrative districts and by the National Legislative Council, which was composed of the President and the Vice-President of the Republic, the Ministers of State, the President of the National Assembly of Representatives and an unspecified number of members freely appointed and dismissed by the Executive.

63. The 1978 constitutional reforms changed the National Legislative Council into a body which was composed of 57 members elected directly and indirectly

and to which all legislative functions were assigned. One third of the Council was elected by direct popular suffrage, with the rest being chosen from among the 505 representatives of the administrative districts (four for each province and one for the San Blas district).

64. The 1983 constitutional reforms provided that legislative authority was to be exercised by the Legislative Assembly, whose members were to be known as legislators; they are elected by proportional representation in constituencies known as electoral districts by a free, direct and secret ballot among citizens aged over 18 and are nominated by political parties for a five-year term of office. This system is still in force. In 1984 and in 1989, the Legislative Assembly was composed of 67 legislators; this number is the result of the application of the formula provided for in the Constitution (art. 141). In 1994, however, since the formula would have led to a considerable increase in the number of legislators as a result of the increase in the size of the population, the Legislative Assembly adopted Act No. 28 of 1993 to restrict its size to the current figure of 72 legislators.

65. The legislative branch consists of a single chamber which considers, analyses, evaluates and adopts bills.

66. The electoral districts are formed on the basis of the current political and administrative division of the districts and the number of inhabitants.

67. The number of male and female legislators in the Legislative Assembly has been as follows: in the 1984-1989 period, four of the 67 legislators were women; in 1989-1994, five of the 67 legislators were women; and, in the current 1994-1999 period, seven of the 72 legislators are women.

68. Seven political parties were represented in the Legislative Assembly in the period from 1984 to 1989 and the figure was the same in the period 1989-1994. Thirteen political parties are represented in the Assembly for the period 1994-1999.

69. The main function of the legislative branch is the enactment of the laws necessary for the achievement of the objectives and the performance of the functions of the Government, as referred to in the Constitution. The Assembly performs legislative, judicial and administrative functions, which are specified in articles 153, 154 and 155 of the Constitution, respectively.

70. The Legislative Assembly meets, on the basis of its own decision without any need to be convened, in the capital of the Republic. Its sessions last eight months per year and are subdivided into two four-month ordinary sessions, which last from 1 September to 31 December and from 1 March to 30 June. The four-hour ordinary meetings, from Monday to Thursday, are public and have to be broadcast by radio throughout the country. The Legislative Assembly also meets in extraordinary sessions, when convened by the executive branch, for the period specified by the latter, exclusively to hear matters brought before it by the executive branch.

71. The governing body of the Assembly is composed of a president, a first vice-president and a second vice-president, who must be legislators. They are

elected for a one-year term by the Legislative Assembly sitting in full and may not be re-elected. The Secretary and Under-Secretary-General are elected for a five-year term by an absolute majority of votes of the legislators and do not have to be legislators to hold those posts.

72. There are 21 standing committees. Each one has a board composed of a chairman, a vice-chairman and a secretary, all of whom are legislators who have been elected by a majority of votes of the members of each committee. The standing committees are as follows:

1. Credentials, internal justice, regulations and judicial matters;
2. Revision and drafting;
3. Government, justice and constitutional affairs;
4. Budget;
5. Public finances, planning and economic policy;
6. Trade, industry and economic affairs;
7. Public works;
8. Education, culture and sports;
9. Canal affairs;
10. Labour and social welfare;
11. Communications and transport;
12. Public health and social security;
13. Foreign affairs;
14. Agricultural affairs;
15. Housing;
16. Human rights;
17. Indigenous affairs;
18. Population, environment and development;
19. Women's affairs, rights of the child, youth and family;
20. Control and elimination of drugs and drug trafficking;
21. Parliamentary ethics and integrity.

The last six of these standing committees were set up after 1992. The Budget Committee has 15 members. The elections are held each year.

73. There are also ad hoc committees, which are elected by the chamber sitting in full and are composed of no fewer than six legislators, to deal with special matters or perform specific tasks not within the mandate of the standing committees. Ad hoc committees appointed directly by the President of the Legislative Assembly may also be set up.

D. The judicial branch

74. Since the birth of the Republic of Panama as a sovereign and independent State, the Constitution has contained a section on the administration of justice. Title VII, chapters I and II, of the 1972 Panamanian Constitution, as amended by the 1983 Amendment Acts, the 1978 Constitutional Act and Legislative Act No. 1 of 1993, provides for the division of the administration of justice. Article 199 of the Constitution stipulates that "The judicial branch shall consist of the Supreme Court of Justice and such courts and tribunals as the law may establish".

75. The judicial branch is the most specialized of the three branches of Government and resolves conflicts arising out of the violation or interpretation of the law whenever a judicial decision is required to ensure the effective and full exercise of existing rights. It is therefore responsible for maintaining the legal order of the State by means of statements of the law, i.e. through acts of non-contentious, contentious or precautionary jurisdiction.

1. The Supreme Court

76. The Supreme Court is subdivided into four chambers, each composed of three permanent members: the Civil Division, the Criminal Division, the Administrative Division and the fourth, General Division, which consists of the Presidents of the three other divisions and is presided by the President of the Supreme Court.

77. The constitutional authority of the Supreme Court is provided for in article 203 of the Constitution, which reads:

> "Article 203. The responsibilities of the Supreme Court shall include the following:
>
> 1. The preservation of the integrity of the Constitution, for which purpose the full Court shall, after hearing the Attorney General or the Government Prosecutor, handle and rule on cases relating to the unconstitutionality of laws, decrees, agreements, decisions, rulings and any other acts which, on grounds of substance or form, are challenged before it by any person ... .
>
> 2. Administrative jurisdiction over acts, omissions, the faulty or defective provision of public services, decisions, orders or rulings enforced, adopted, issued or committed by public officials

and national, provincial, municipal officials and officials of public autonomous and semi-autonomous institutions in the exercise or on the pretext of the exercise of their functions. To this end, the Supreme Court may, after hearing the Government Prosecutor, repeal acts whose lawfulness is challenged; restore any individual rights violated; enact new provisions to replace those challenged; and hand down a ruling on the meaning and scope of an administrative act or its legal validity ... .

3. Objections on grounds of non-enforceability.

The Judicial Code shall determine the jurisdiction and functions of the four Divisions. Each Division is an autonomous court with its own secretarial staff. The Divisions thus carry out their jurisdictional functions independently."

78. The Judicial Code also assigns the full Supreme Court jurisdiction over the following: cases or litigation involving prizes taken at sea; proceedings involving ordinary or minor offences committed by Ministers of State, the Attorney-General, the Government Prosecutor, the members of the Legislative Assembly, commanding officers and members of the armed forces general staff, the Comptroller General of the Republic and judges of the electoral court. The full Supreme Court is also responsible inter alia, for electing the President and Vice President of the Supreme Court and the judges of the higher courts every two years and for ensuring that, in accordance with due process, applications for habeas corpus, amparo and constitutional guarantees are expeditiously and properly handled when they involve officials or corporations with jurisdiction throughout the Republic or in two or more provinces.

2. The judicial division and territorial jurisdiction

79. Article 66 of the Judicial Code divides the territory of the Republic into four judicial districts. These are divided into judicial circuits, which are in turn subdivided into judicial precincts.

80. The first and second higher courts belong to the first judicial district, whose jurisdiction covers the province of Panama, part of Colón, Darién and the San Blas district. This judicial district has five judges and five alternates.

81. The second judicial district includes part of the provinces of Colón and Veraguas. The third judicial district is formed by the provinces of Chiriquí and Bocas del Toro and the fourth is made up of the provinces of Herrera and Los Santos. A higher court composed of three principal and three alternate judges operates in these judicial districts.

82. Circuit courts, which rank below the higher courts, cover the political and administrative territorial division known as a province.

83. The municipal courts are the lowest ranking courts in the judicial hierarchy. They come under the authority of the circuit courts of the province to which they belong and which are thus their hierarchical superiors.

3. Subsidiary judicial bodies

84. The Public Prosecutor's Department assists in the administration of justice and has existed since the 1904 Constitution. According to the constitutional and legal provisions in force, it is the representative of society and of the family, which is the fundamental group unit of Panamanian society.

85. With regard to this important body, the Panamanian Constitution states the following:

> "Article 216. The duties of the Public Prosecutor's Department shall be performed by the Attorney General of the Nation, the Government Prosecutor, the prosecutors and any other officials appointed by law. The duties of the Attorney General of the Nation may be delegated, as provided for by law, to officials of the Public Prosecutor's Department."

86. The Panamanian Judicial Code assigns the Public Prosecutor's Department two procedural functions. First of all, it performs the functions of the examining magistrate at the pre-trial stage, as provided for in article 2007 of the Judicial Code:

> "Article 2007. Examination proceedings in connection with offences under the jurisdiction of the ordinary courts shall be the responsibility of officials of the Public Prosecutor's Department acting as examining magistrates."

87. The Department also acts as public prosecutor, in accordance with articles 1976 and 2206 of the Judicial Code, the first of which states:

> "Article 1976. The right to take criminal proceedings is public and is exercised by the State acting through the Public Prosecutor's Department in the cases expressly referred to by this Code."

88. The Public Prosecutor's Department is thus authorized to perform the functions of examining magistrate at the pre-trial stage and, once they have been completed, to submit his findings to the competent judge; it also brings charges before the court in full.

89. It should be noted that article 2007 makes pre-trial proceedings the responsibility of the Public Prosecutor's Department, as it performs the functions of examining magistrate and that, in contrast to other Latin American States, this task is carried out by judges belonging to the judiciary.

90. Panama's Constitution contains the following provisions that apply to all officials of the Public Prosecutor's Department:

> "Article 217. The Public Prosecutor's Department shall have the following responsibilities:

1. To defend the interests of the State or the municipality.

2. To ensure compliance with and the enforcement of laws, court decisions and administrative orders.

3. To monitor the official conduct of public officials and to ascertain that they all properly discharge their duties.

4. To prosecute offences and violations of constitutional or legal provisions.

5. To act as a legal adviser to administrative officials.

6. To perform such other functions as may be determined by law."

IV. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

91. With regard to the general legal framework for the implementation and protection of human rights in the Republic of Panama, it may be said that all the national authorities are involved in some way in the protection of fundamental human rights. The Constitution provides:

> "Article 17. The authorities of the Republic of Panama are established in order to protect the life, honour and property of nationals, wherever they may be, and of foreigners under their jurisdiction; to guarantee the effectiveness of individual and social rights and duties; and to implement the Constitution and the law."

92. Within this system, the judiciary as a whole and the Ministry of the Interior and Justice have greater responsibility because their constitutional and legal functions are closely linked with the protection of the human rights of nationals or foreigners who are resident or temporarily present in the national territory.

93. There is a wide range of proceedings, motions and remedies available under the Constitution and ordinary law for redress against acts or omissions which hamper the exercise of individual and fundamental rights.

94. At the constitutional level, there are guarantees such as habeas corpus, which protects personal freedom; proceedings for the protection of constitutional safeguards against orders which are issued by any public servant and which allegedly violate the rights and safeguards embodied in the Constitution; and the action and claim of unconstitutionality which any person or party to a proceeding may bring before the Supreme Court to challenge, on grounds of form or substance, the constitutionality of Government laws, decrees, agreements, decisions and acts for the purpose of having them repealed.

95. In criminal, administrative, labour and administrative policing matters, the law provides for a number of proceedings, motions and remedies whose exercise is fully regulated by ordinary law. These include the motion of

objection during the pre-trial stage of criminal proceedings, motions of nullity, appeals for reconsideration and appeals for dismissal and for review.

96. With regard to the systems of compensation and rehabilitation, article 1645 of the Civil Code provides that the State is jointly responsible for any damages caused as a result of fault or negligence on the part of public officials if it acted through a particular official. Article 129 of the Penal Code also provides that the State is liable to pay civil compensation when an accused person obtains dismissal after having been held in pre-trial detention for more than one year. In general terms, moreover, the provisions of the Judicial Code make it possible for proceedings to be brought against the Nation and the autonomous and semi-autonomous institutions to obtain compensation for loss or injury suffered by persons whose rights have been violated, if such loss or injury was caused by public servants.

97. The Constitution contains the following provisions on the rehabilitation of prisoners:

> "Article 28. The prison system is based on the principles of security, rehabilitation and the protection of society. The use of methods that are injurious to the physical and moral integrity of detainees is prohibited. Detainees shall be provided with training to enable them to become useful members of society. Juvenile detainees shall be subject to a special regime of custody, protection and education."

98. It should be emphasized that the various human rights instruments are incorporated into the Constitution and ordinary law.

99. Under the Constitution, fundamental human rights may be denied only by means of the provisions of title III, article 308, on amendments to the Constitution. Under this system, amendments are made by:

(a) A legislative act adopted in three debates by the Legislative Assembly;

(b) A legislative act adopted in three debates by the Legislative Assembly, but submitted to a direct popular referendum.

100. The circumstances in which nine of the 34 guarantees embodied in the Constitution may be suspended are established in the following article:

> "Article 51. In the event of foreign war or internal disturbance that threatens peace and public order, a state of emergency may be declared in all or part of the Republic and all or part of the effects of articles 21, 21-A, 22, 25, 26, 28, 36, 37 and 43 of the Constitution may be temporarily suspended.
>
> The state of emergency and the suspension of the effects of the above-mentioned constitutional provisions shall be declared by the executive branch of Government through a decree adopted by the Council of Ministers.

The legislative branch shall, of its own motion or at the request of the President of the Republic, take cognizance of the declaration of a state of emergency if such a state lasts more than 10 days and shall confirm or revoke all or part of the decision adopted by the Council of Ministers in connection with the state of emergency."

101. This constitutional provision shows that the following fundamental guarantees may not be suspended under the state of emergency:

(a) The right of citizens, wherever they may be, and of foreigners under Panamanian jurisdiction to official protection of their life, dignity and property;

(b) The right of individuals to be held responsible to the authorities only for breaches of the Constitution and the law;

(c) The prohibition of discrimination on grounds of race, birth, social class, sex, religion or political ideas;

(d) The right to equality before the law;

(e) The right of nationals and aliens not to be extradited for political offences;

(f) The right not to testify against oneself, one's spouse or one's relatives to the fourth degree of consanguinity and the second degree of affinity in cases involving crimes and ordinary or minor offences;

(g) The right to be punished only for acts declared punishable by a law adopted prior to their commission and applicable to the punishable act;

(h) The right to due process of law;

(i) The right to freedom of religion;

(j) The right to freedom of association;

(k) The right freely to exercise one's profession;

(l) The right to file complaints and petitions;

(m) The prohibition of the death penalty, exile and confiscation of property;

(n) The right to the non-retroactivity of the law, with the exception of laws relating to public order and laws adopted for the benefit of society.

102. The international human rights provisions contained in conventions, treaties and declarations of principles are incorporated into the national

legal system by means of an act which shows that they were adopted by the Legislative Assembly in three debates on different days and which must also be endorsed by the executive, as required by the Constitution.

103. Under Panama's Constitution and laws, the provisions of international human rights instruments may be invoked before the law courts or the administrative authorities only after they have been incorporated into internal law through approval by the Legislative Assembly.

Administrative human rights proceedings

104. This procedure is derived directly from the draft amendments to Book I of the Judicial Code, which subsequently became Act No. 19 of 9 July 1991. The source of the procedure for the protection of human rights is to be found in Spanish legislation and its purpose is slightly to change the traditional French system, which regards the administrative procedure as an ad hoc legal instrument, and makes it a system for the protection of fundamental human rights. This new procedure is designed to protect certain individual human rights, i.e. those which are justiciable against acts by the public administration which might violate them.

105. The human rights which the public administration may be required to enforce are those of a civil and political nature, since economic, social and cultural rights are usually "programme rights" that commit Governments only to the adoption of measures designed gradually to create favourable social and economic conditions for their people. This approach is also designed to protect human rights against violations by administrative acts of the national authorities. In other words, administrative acts by the national authorities, including the central Government and the autonomous or semi-autonomous institutions, and acts of the Legislative Assembly or judicial bodies with jurisdiction throughout the country may be reviewed only by this special procedure. Administrative acts of the provincial and municipal authorities are thus excluded. The reason is that, in view of the current structure of the Third Administrative Division, the only court with such jurisdiction in Panama, it would not be advisable for it to review the acts of all provincial and municipal authorities, since the number and nature of cases would create an enormous backlog.

106. The Act provides that the administrative procedure for the protection of human rights is subject to the provisions of Act No. 135 of 30 April 1943 and Act No. 33 of 11 September 1946, which require that ordinary administrative procedure must have been exhausted. However, Act No. 19 on administrative human rights proceedings states that it is usually not necessary for the victim to have exhausted administrative remedies before applying to the Third Division. Another exception under this new procedure is that the Government Prosecutor must be involved in all cases, in the interests of the law.

107. In this connection, article 98, paragraph 15, of the Judicial Code reads:

"Article 98. The Third Division shall exercise jurisdiction over cases involving acts, omissions, faulty or defective performance by public servants, decisions, orders or rulings enforced, issued or committed by public officials or national, provincial and municipal authorities and by the public autonomous or semi-autonomous institutions in the exercise, or on the pretext of the exercise, of their functions. Accordingly, the Third Division shall exercise administrative jurisdiction over the following:

...

15. Proceedings for the protection of human rights, for which purpose it may repeal administrative acts by the national authorities and, as appropriate, restore or remedy the right thus violated, if the administrative acts in question violate justiciable human rights provided for in the laws of the Republic, including those approving international human rights treaties. Such proceedings shall be conducted in accordance with Act No. 135 of 30 April 1943 and Act No. 33 of 11 December 1946, but the victim shall not be required to have exhausted administrative remedies. The Government Prosecutor shall intervene only in the interests of the law."

108. With regard to the existence of a human rights monitoring body, the Government of the Republic of Panama has submitted a bill to the Legislative Assembly for the establishment of the Defensoría del Pueblo (Office of the People's Advocate). It will be set up to protect the human rights provided for in Title III of the Constitution and all other rights embodied in the Constitution, international human rights agreements and the law, as well as to monitor acts and omissions by all public servants.